

1 TAYLOR RANDOLPH [NBN 10194]
tr@randolphlawfirm.com
2 RANDOLPH LAW FIRM, P.C.
6260 North Durango Drive
3 Building 6, Suite 100
Las Vegas, Nevada 89149
4 Telephone: (702) 570-3211

5 PAUL B. DERBY [*admitted pro hac vice*]
pderby@skiermontderby.com
6 JOHN J. O'KANE IV [*admitted pro hac vice*]
jokane@skiermontderby.com
7 SKIERMONT DERBY LLP
800 Wilshire Boulevard, Suite 1450
8 Los Angeles, California 90017
Telephone: (213) 788-4500
9 Facsimile: (213) 788-4545

10 Attorneys for Plaintiff
COUNTER WRAPS INTERNATIONAL
11 INC. DBA DC MEDIA AND MARKETING

12 [Additional counsel listed on signature page]

13 **UNITED STATES DISTRICT COURT**
14 **DISTRICT OF NEVADA**
15

16 COUNTER WRAPS INTERNATIONAL,
INC. d/b/a DC Media and Marketing, a
17 Nevada Corporation,

18 Plaintiff,

19 v.

20 DIAGEO NORTH AMERICA INC., a
Connecticut corporation; DIAGEO
21 AMERICAS INC., a Delaware
corporation; and DOES 1 through Z,
22 inclusive,

23 Defendants.
24
25
26
27
28

Case No. 2:16-cv-02924-JCM-CWH

**STIPULATION AND PROPOSED
MODIFIED SCHEDULING ORDER**

(THIRD REQUEST)

Complaint Filed: Oct. 20, 2016

First Amended
Complaint Filed: Dec. 14, 2017

Case Removed to
Federal Court: Dec. 16, 2016

1 Pursuant to Local Rules 7-1, 26-1, and 26-4, Plaintiff Counter Wraps
2 International Inc. d/b/a DC Media and Marketing (“Plaintiff”) and Defendants Diageo
3 North America, Inc. and Diageo Americas Inc. (collectively “Defendants” and,
4 together with Plaintiff, the “Parties”) hereby respectfully submit this Stipulation and
5 Proposed Modified Scheduling Order (Third Request):

6 1. The Court entered a Scheduling Order on February 1, 2017 (ECF 15)
7 with certain deadlines.

8 2. The Scheduling Order was amended on May 30, 2017 (ECF 21) to
9 extend certain deadlines (the “First Amended Scheduling Order”).

10 3. The First Amended Scheduling Order was thereafter amended again on
11 December 14, 2017 (ECF 33) to further extend certain deadlines (the “Second
12 Amended Scheduling Order”).

13 4. Under the Second Amended Scheduling Order (ECF 33), the last date to
14 file the joint pretrial order was July 9, 2018. Pursuant to Local Rule 26-1(b)(5), where
15 “dispositive motions are filed, the deadline for filing the joint pretrial order will be
16 suspended until 30 days after decision on the dispositive motions or further court
17 order.”

18 5. The Parties respectfully submit that the conditions necessary for the
19 modification of this Court’s current operative Second Amended Scheduling Order
20 (ECF 33) exist here. No pretrial order was submitted by the Parties because
21 Defendants filed a dispositive motion on June 8, 2018—the Motion for Summary
22 Judgment (ECF 37). Defendants’ Motion for Summary Judgment was granted on
23 March 15, 2019 (ECF 50), and Plaintiff appealed (ECF 52). The Ninth Circuit Court
24 of Appeals reversed in part in an Order dated July 2, 2020. (ECF 54.) The Ninth
25 Circuit issued its mandate on July 24, 2020, which mandate was entered by this Court
26 on August 5, 2020. (ECF 55, 57). Accordingly, the current deadline to file the joint
27 pretrial order is September 4, 2020—thirty (30) days after the August 5, 2020 Order of
28

1 this Court following the mandate from the Ninth Circuit Court of Appeals (ECF 57).
 2 (L-R 26-1(b)(5).)

3 6. The Parties have met and conferred, and given the scope of the record
 4 and passage of time, as well as the current COVID-19 pandemic and its effect upon
 5 the Court and the Parties, do stipulate, subject to the approval of this Court, that the
 6 last date to file the joint pretrial order is extended up to and including October 16,
 7 2020.


8 7. The Parties anticipate asking for the earliest possible trial date after
 9 January 2021, given this case returns to this Court after the close of discovery and
 10 upon the conclusion of a dispositive motion. The Parties request a teleconference with
 11 the Court, at the first convenient opportunity, to discuss the status of the case and set
 12 the earliest possible trial date.

13 DATED: August 18, 2020

DATED: August 18, 2020

14 SKIERMONT DERBY LLP

HOWARD & HOWARD ATTORNEYS PLLC

16
 17 By: 
 18 PAUL B. DERBY [*Pro Hac Vice*]
 19 JOHN J. O'KANE IV [*Pro Hac*
 20 *Vice*]

21 Attorneys for Plaintiff
 22 COUNTER WRAP
 23 INTERNATIONAL INC d/b/a DC
 24 Media and Marketing

By: /s/ Robert Hernquist (by permission)

ROBERT HERNQUIST
 [Nev. Bar No. 10616]
 JENNIFER LLOYD
 [Nev. Bar No. 9617]

Attorneys for Defendants
 DIAGEO NORTH AMERICA INC.
 and DIAGEO AMERICAS INC.

25 **IT IS SO ORDERED.**

26 
 27 UNITED STATES MAGISTRATE JUDGE

28 DATED: August 20, 2020

Case Name: *Counter Wraps International Inc. v. Diageo North America Inc., et al.*
Case No.: 2:16-cv-02924-JCM-CWH

PROOF OF SERVICE

UNITED STATES DISTRICT COURT, DISTRICT OF NEVADA

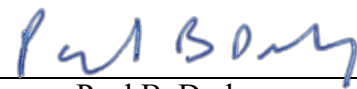
I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) and not a party to the within action. My business address is 800 Wilshire Boulevard, Suite 1450, Los Angeles, California 90017.

On August 18, 2020 I served the foregoing document described as **STIPULATION AND PROPOSED MODIFIED SCHEDULING ORDER (THIRD REQUEST)** on all interested parties to this action as follows: ☒ by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list:

☒ **(ELECTRONIC SERVICE BY CM/ECF SYSTEM)** I hereby certify that a true and correct copy of the above-titled document was served on the above date to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system pursuant to Local Rule IC 4-1(a). Any other counsel of record will be served by electronic mail delivery.

☒ (Federal) I declare under penalty of perjury under the laws of the United States of America and the State of California that the above is true and correct.

Executed on August 18, 2020, at Los Angeles, California.



Paul B. Derby